

PLANNING COMMISSION MINUTES OF AUGUST 29, 2005

SUBJECT: **2004-0910 – The Steinberg Group** [Applicant] **Sunnyvale Partners Ltd.** [Owner]: Application for related proposals on an 8.83-acre site located at **1250 Lakeside Drive** (near Oakmead Pkwy) in an M-S (Industrial & Service) Zoning District. (APN: 216-43-035, 036)

Motion **Certify** Final Environmental Impact Report to consider the development of a 253-room hotel and 244 residential units with structured parking,

Resolution **General Plan Amendment** to change the land use designation from Industrial to Lakeside Specific Plan,

Introduction of
an Ordinance **Amend** Sunnyvale Municipal Code Title 19 to add the Lakeside Specific Plan Zoning District and Rezone the site from M-S (Industrial and Service) to Lakeside Specific Plan (LSP),

Motion **Special Development Permit** to allow a 253-room hotel and 244 residential units with structured parking,

Motion **Parcel Map** to allow 244 condominium lots and two common lots.

Steve Lynch, Associate Planner, presented the staff report. He said in general, staff is in support of the plan. One major issue is that staff is recommending a redesign to eliminate the proposed 95 tandem spaces. Overall staff believes this is a landmark project, will be a benefit to the City and is recommending approval with conditions. Staff was able to make the required findings for the separate permits.

Comm. Babcock asked staff about Condition of Approval (COA) 30.F. regarding the hotel being responsible for the maintenance of the lake. She asked why this was not part of the maintenance agreement of the Lake District Association and maintained by all the property owners. Mr. Lynch explained that having the hotel maintain the lake is simpler than having multiple entities responsible for it. There are about 12 property owners around the lake. Comm. Babcock asked if the grounds around the lake are maintained separately from the actual lake. Staff said that the grounds are maintained by the property owners. Trudi Ryan, Planning Officer, further explained the residential properties include a portion of the frontage of the lake, but the majority of lake grounds are under the ownership of other property owners. Currently the existing hotel is responsible for the entire lake area of the site. The intent is to simplify the lake maintenance by having

the hotel maintain it. Staff referred the Commissioners, to Attachment D page 25 for a map of the property.

Comm. Simons asked about page 40 of staff report regarding Art in Private Development and specifically where art can be placed. Mr. Lynch said Art in Private Development requires a permit and approval of the Arts Commission. Staff is recommending art throughout the site rather than just one area. Comm. Simons asked about the sound wall and the feasibility of working with Caltrans to place some type of art near the wall to improve the appearance. Ms. Ryan said that Art in Private Development needs to be onsite, therefore incorporating it into the sound wall would not meet the requirement. Comm. Simons said he would like to talk to staff later this week to provide contacts with BART (Bay Area Rapid Transit) and Caltrans representatives who can explain what they have been able to do with multiple jurisdictions in other areas, including Oakland and Berkeley.

Comm. Klein asked for clarification about hotel parking space numbers and how they were determined. Staff said that the parking numbers were based on 100% occupancy with hotel and retail considered, and that parking for retail would usually be in the daytime with the peak parking hours for the hotel being in the evening. Comm. Klein asked about COA 21.B., "Up to 50% compact spaces for the hotel is allowed," and what the total number of parking spaces could actually be if 50% of the spaces were compact. Staff said the hotel configuration has changed and that the applicant may know the number, but basically for every 10 spaces there could be one additional parking space depending on the layout of the lot. Comm. Klein asked about COA 29.A, regarding "No vehicles and trailers advertised for sale or rent on the site..." Staff said the intent is to have a car rental agency on site and that this COA means "no parked vehicles or trailers" for sale, lease or rent by individuals would be allowed. Comm. Klein asked what the normal operation is regarding hotels and car rental agencies and the effect on the parking spaces. Staff said there are other hotels in town that have car rental availability onsite and the rental vehicles have not impacted parking.

Comm. Moylan asked for the definition of a four-star hotel. Staff said it is the number of employees per guest room, but that the applicant may want to add to the definition. Comm. Moylan asked what a "Champagne Room" is. Staff said it is just a name of a room not a type of room. Comm. Moylan referred to COA 17.A.1 and asked what the purpose was of minimizing the use of palm trees on the site. Staff said there are approximately 47 significant protected trees around the site and staff would like to see more natural trees similar to the trees being retained around the site. Comm. Moylan asked about the EIR (Environmental Impact Report) in regards to toxic soil remediation, specifically soil mixing if needed, for chlordane in soils on the site. He commented that in the letter, Attachment I, page 22, from the Department of Toxic Substances Control (DTSC) that the DTSC does not consider the mixing of contaminated soil with clean soil to lower the chlordane concentration as an appropriate remediation. Staff referred the question to John Schwarz of David J. Powers and Associates, the

environmental consulting firm retained to prepare the EIR for this project. Mr. Schwarz responded that chlordane was detected in a couple of soil samples on the site which is not uncommon with former agricultural properties. He said the question is whether the site is suitable for residential and that becomes a jurisdictional question. Mr. Schwarz and Comm. Moylan discussed some of the differences between County and State requirements. Comm. Moylan asked, since there are several different ways to remediate the soil and since DTSC does not consider soil mixing an acceptable method of soil remediation, would be a problem to remove the soil mixing from the list of methods the City might use. Mr. Schwarz said that the removal of soil mixing as a remediation method could be a modified part of the conditions.

Chair Hungerford asked for a definition of tandem parking. Staff said it is cars parked nose to tail. Chair Hungerford said that the report refers to the addition of another parking garage level as a solution to insufficient parking. Staff said this would only apply to the residential parking garage side. Ms. Ryan added that if the hotel increases parking spaces there may be a way to share guest spaces with the residential area. Chair Hungerford commented on the previous discussion between Chair Moylan and Mr. Schwarz on whether DTSC, a State agency, could come in and trump the County regarding soil remediation. It may be a wise choice to not go with the soil mixing, which is acceptable at the County level, and choose either excavation or capping the site which the State prefers. Mr. Schwarz added that there are several options listed in the report for soil remediation, if needed, because until the project design is finalized it is hard to say what the best method of soil remediation.

Chair Hungerford opened the public hearing.

Lyle Boll, attorney for the applicant, thanked staff for their assistance. He said he is very enthusiastic about this project. He commented on several of the previous questions. The first was regarding the lake maintenance. He said the hotel currently pays about 45% of the costs and could continue to do this. He said that service is a factor that determines the star-rating of a hotel. There are two major groups that rate hotels, Mobile (star ratings) and American Automobile Association (diamond ratings). Both have sets standards including level of service, cleanliness and amenities. A four-star hotel is considered a high-end property.

Comm. Simons commented that sometimes there are problems with lawsuits with higher-density for-sale housing developments specifically connected to inspections. He asked Mr. Boll to comment regarding this. Mr. Boll said that he has experienced very few lawsuits over the years with this kind of project. He said the company does their best to create a quality project and try to be as responsive as possible if complaints arise. Comm. Simons commented that the residential part of the project appears to be intended for professional adults yet COA 20.B. refers to two "tot lots" provided onsite. He asked the applicant to

comment about the kinds of amenities considered to make this a family-friendly project. Mr. Boll replied that they relied on what was thought to be appropriate for the neighborhood and that they are interested in selling the units to anyone who applies.

Comm. Moylan referred to page 18 of the report noting that one of the goals of the project would be to retain most or all of the jobs at the existing hotel. He asked Mr. Boll to comment on any arrangements made to accommodate the displaced workers. Mr. Boll said that this was a topic of conversation in the union agreements which were approved by the applicant and ratified by the employees' union. The agreements provide for compensation for those who lose their jobs and deals with those who want to come back. Gary Lind, General Manager of the Four Point Sheraton, said all current employees will be notified by mail and will be given first opportunity for jobs when it is time to hire. Comm. Moylan asked about the 3000 square feet of retail space that is to be shared amenities for both residents and guests. He asked what types of amenities are being proposed and is the square footage large enough. Mr. Boll deferred to **Rob Steinberg**, President of Steinberg Architects. He said they envision convenience, neighborhood-oriented amenities like a take-out coffee shop, a dry cleaners, and a mom-and-pop convenience store. The applicant has proposed only 3000 square feet, as a small amount of retail is more appropriate for the four-star hotel than a large retail area. Comm. Moylan asked the applicant why they feel the transit bus line would mitigate traffic at a four-star hotel. The applicant said there will hopefully be a variety of people living in the residential portion that could benefit from the use of the bus line.

Comm. Babcock referred to the report and asked Mr. Boll to comment on the possible suggestions to eliminate the tandem parking. Mr. Boll deferred the question to Mr. Steinberg.

Comm. Fussell asked what other properties Mr. Boll's company (Millennium Hotels and Resorts) manages, particularly hotels. Mr. Boll listed a variety of hotels and resorts around the United States, with the nearest one being the Biltmore in Los Angeles. They also manage international properties.

Mr. Steinberg, the project architect, presented a PowerPoint presentation providing a brief overview of the design and the project. He addressed an earlier question from Comm. Babcock regarding parking and said the applicant will be able to work with staff to address the parking issues, including the tandem parking. He commented that the current hotel is older and is not as desirable as it used to be. He said the lake is a good amenity and they have tried to take the character and design of the lake and integrate the integrated environment. The hotel becomes the fulcrum in the center of the activities. Some of the amenities of the hotel are restaurants, lounges, meeting rooms, a fitness center and an outdoor infinity pool. The residential area is elegant with a wide variety of unit types ranging from 650 square feet to 2000 square feet. Every unit has storage

and outdoor space and there is an outdoor roof space. The hotel has been pulled back a bit from the lake edge so this area can be used by the public. He said this is an unusual opportunity for one of the worldwide premier hotel chains to reconnect with Sunnyvale and will be a good opportunity for both locals and out-of-town guests.

Comm. Simons asked the applicant about the “tot lots” and the uses for these. Mr. Steinberg said one is near the lake and would be available to the hotel guests and one is in the residential areas. Comm. Simons asked about the placement of art. Mr. Steinberg said the approach would be to distribute the art around the area rather than in one place. Comm. Simons asked about the sound wall near the high-end hotel and how they will hopefully work to make it more aesthetic. Mr. Steinberg said there are a lot of trees near the wall and they will continue to work with the City on the finishing of the sound wall.

Comm. Sulser asked why the beach was removed on the new project. Mr. Steinberg said they feel that the look they are going for is more of a hardscape. They also feel the beach was in conflict with providing a restaurant with good outdoor dining, the variety of meeting rooms that near the water and the private vs. the casual needs of the hotel vs. the beach.

Harriet Rowe, a Sunnyvale resident, said that this is an excellent opportunity to provide a good residential area in Sunnyvale. She asked the applicant what the below market rate for the meeting room rental would be. She expressed concern about the children’s play area and who would pay the liability insurance. She commented that she did not see a kitchenette or restrooms in the clubhouse plans. She asked about the CC&Rs commenting that they are usually more complex than what is shown in this report, Attachment B, COA 11.

Comm. Simons asked Ms. Rowe to further explain her question about CC&Rs. She said that generally boiler plate CC&Rs for homeowner associations would be about 50 pages long. The CC&Rs in the report are very minimal and she would like to see these expanded. She said she feels there are some guidelines in the State corporate laws that would cover the homeowners and protect them more than what is listed. Comm. Simons asked staff if it is normal to have larger CC&Rs. Ms. Ryan said staff has only included references to CC&Rs to make sure particular issues are addressed in the more complex version of the CC&Rs.

Mr. Steinberg addressed some of the issues raised. He said a premier legal firm in Palo Alto is doing the “complex” version of the CC&Rs. He added that the clubhouse will include restrooms and a small kitchenette.

Chair Hungerford closed the public hearing.

Comm. Babcock made a motion on item 2004-0910 for Alternative 1 to take the following actions to recommend to City Council: certify the Final

Environmental Impact Report; approve a resolution to amend the General Plan land use designation from Industrial to Lakeside Specific Plan; introduce an ordinance to amend Sunnyvale Municipal Code Title 19 to add the Lakeside Specific Plan Zoning District and Rezone the site from M-S (Industrial and Service) to Lakeside Specific Plan (LSP); and approve the Special Development Permit and Parcel Map with attached conditions of approval. She said she would be open to having Comm. Moylan rephrase his EIR request. Comm. Moylan suggested the language, "the mixing of chlordane contaminated soil with clean soil will not be used as one of the remediation methods as per recommendation of the State Department of Toxic Substances Control" and said it should be part of the conditions of the SDP. Joan Borger, Senior Assistant City Attorney, referred to attachment G, the Mitigation Monitoring and Reporting Program, and said that page 19 refers to Mitigation Measures related to the soil. She said that she thinks it is worded broadly enough that it covers all State and Federal requirements. She thinks that this might be adequate to address this concern. Comm. Moylan suggested **removing the wording "soil mixing" from the language on the Mitigation Monitoring and Reporting Program, page 19.** Comm. Simons **seconded.** Comm. Simons **proposed a Friendly Amendment to modify the wording in COA 17.F. to include "with an emphasis on Sunnyvale native species."** This was accepted by the maker of the motion.

Comm. Simons proposed a second Friendly Amendment to add COA 17.H. to read the "Applicant and the City shall collaborate on potential landscaping on the sound wall along Lakeside Drive." This was accepted by the maker of the motion.

Comm. Klein proposed a Friendly Amendment to modify COA 29.A to remove the rental capability of individuals on the site as the car rental was supposed to be part of the hotel amenities. Staff suggested rewording the COA **to read, "No vehicles or trailers shall be advertised for sale or rent unless part of the hotel's car rental service."** The Friendly Amendment was accepted by the maker and the seconder.

Chair Hungerford asked Comm. Babcock for clarification on how the motion deals with the parking issue. Comm. Babcock said the motion deals with the parking as suggested and proposed by staff as the applicant felt those suggestions were feasible.

Comm. Babcock said she really likes this project and that this is a perfect site for the high-end hotel and the residential. She said it also improves the landscaping on the site and she looks forward to seeing it completed.

Comm. Simons thanked the applicant for listening to the Planning Commission's suggestions and incorporating some of the ideas into the project. He likes the architecture and thinks that many people will look at this as a wonderful addition.

Comm. Moylan thanked the applicant for calculating the number of students that the residential area will generate as this is part of considering all the possible effects a project may have. He said he likes the large amount of smaller-sized units in the residential area and enthusiastically supports the motion.

Comm. Babcock thanked staff for the outstanding report.

Chair Hungerford also thanked the staff for the report.

Final Action:

Comm. Babcock made a motion on item 2004-0910 for Alternative 1 to take the following actions to recommend to City Council: certify the Final Environmental Impact Report; approve a resolution to amend the General Plan land use designation from Industrial to Lakeside Specific Plan; introduce an ordinance to amend Sunnyvale Municipal Code Title 19 to add the Lakeside Specific Plan Zoning District and Rezone the site from M-S (Industrial and Service) to Lakeside Specific Plan (LSP); and approve the Special Development Permit and Parcel Map with modifications; to modify the language in the Mitigation Monitoring and Reporting Program, page 19 to remove the wording "soil mixing"; to modify the COA 17.F. wording to include "with an emphasis on Sunnyvale native species"; to add COA 17.H. to read, "Applicant and the City shall collaborate on potential landscaping on the sound wall along Lakeside Drive."; to modify COA 29.A. to read, "No vehicles or trailers shall be advertised for sale or rent unless part of the hotel's car rental service." Comm. Simons seconded.

Motion carried unanimously, 7-0.

This item is to be forwarded to the City Council with the Planning Commission's recommendation to be heard at the Council meeting of September 13, 2005.